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NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT
(PCT Rule 72.2)

From the INTERNATIONAL BUREAU

To:

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17. Mai 2004

Frist:

Date of mailing (day/month/year)
06 May 2004 (06.05.2004)

Applicant's or agent's file reference
52 895 V

IMPORTANT NOTIFICATION

International application No.
PCT/EP1999/007968

International filing date (day/month/year)
20 October 1999 (20.10.1999)

Applicant

BIONORICA ARZNEIMITTEL GMBH et al

1. Transmittal of the translation to the applicant.

The International Bureau transmits herewith a copy of the English translation made by the International Bureau of the international preliminary examination report established by the International Preliminary Examining Authority.

2. Transmittal of the copy of the translation to the elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following elected Offices requiring such translation:

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The following elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

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3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report.

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

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Translation

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

| | | |
|---|---|--|
| Applicant's or agent's file reference 52 895 V | FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416) | |
| International application No. PCT/EP99/07968 | International filing date (day/month/year) 20 October 1999 (20.10.99) | Priority date (day/month/year) 23 October 1998 (23.10.98) |
| International Patent Classification (IPC) or national classification and IPC B01D 3/06 | | |
| Applicant BIONORICA ARZNEIMITTEL GMBH | | |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of _____ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☒ Certain defects in the international application
- VIII ☐ Certain observations on the international application

| | |
|--|---|
| Date of submission of the demand 22 March 2000 (22.03.00) | Date of completion of this report 15 January 2001 (15.01.2001) |
| Name and mailing address of the IPEA/EP | Authorized officer |
| Facsimile No. | Telephone No. |

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

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I. Basis of the report

1. This report has been drawn on the basis of *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.)*:

☒ the international application as originally filed.

☐ the description, pages 1-11, as originally filed,
pages _____, filed with the demand,
pages _____, filed with the letter of _____,
pages _____, filed with the letter of _____.

☐ the claims, Nos. 1-21, as originally filed,
Nos. _____, as amended under Article 19,
Nos. _____, filed with the demand,
Nos. _____, filed with the letter of _____,
Nos. _____, filed with the letter of _____.

☐ the drawings, sheets/fig 1/1, as originally filed,
sheets/fig _____, filed with the demand,
sheets/fig _____, filed with the letter of _____,
sheets/fig _____, filed with the letter of _____.

2. The amendments have resulted in the cancellation of:

☐ the description, pages _____

☐ the claims, Nos. _____

☐ the drawings, sheets/fig _____

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

4. Additional observations, if necessary:

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | | |
|-------------------------------|--------|---------------|-----|
| Novelty (N) | Claims | 2 - 4, 9 - 21 | YES |
| | Claims | 1, 5 - 8 | NO |
| Inventive step (IS) | Claims | 2 - 4, 9 - 20 | YES |
| | Claims | 1, 5 - 8, 21 | NO |
| Industrial applicability (IA) | Claims | 1 - 21 | YES |
| | Claims | | NO |

2. Citations and explanations

This report makes reference to the following document:

D1: DE-U-295 04 345 (ESA TECH DR BAUMANN GMBH)

18 May 1995 (1995-05-18)

- Claims 1 and 5:** The solution proposed in Claims 1 and 5 of the present application cannot be regarded as novel (PCT Article 33(2)), because D1 shows (Figure 1) a vacuum distillation system comprising a flash evaporator (26), a vent condenser (63) and a condenser (40, 65, 42), said system being provided with means (19) for recycling part of the condensate into the base product.
- Claim 6:** D1 shows 2 condensation stages (40 and 42).
- Claim 7:** D1 shows a vacuum distillation system wherein the condensate is fed to the evaporator above the liquid level of the base product (30).
- Claim 8:** D1 shows a vacuum distillation system wherein the condensate is fed to a mixing container (1) before entering the evaporator.

.../...

(Continuation of V.2)

5. **Claims 2 - 4, 9 - 13:** The subjects of Claims 2 - 4 and 9 - 13 are neither disclosed by the prior art nor obvious. However, it is not apparent from the present application wherein an inventive concept common to Claims 2 - 4 and 9 - 13 might lie (PCT Rule 13).
6. **Claim 14:** The method of Claim 14 addresses the problem of preventing the reduction of a more highly volatile solvent in the base product of the vacuum distillation system, in order to prevent precipitation of extracted material. This problem is solved in that the first fraction is condensed in several stages and a portion of the condensate is recycled to the base product. The method of Claim 14 is neither disclosed by the prior art nor obvious.
7. **Claims 15 - 20:** Since Claims 15 - 20 refer to independent Claim 14, they are neither disclosed by the prior art nor obvious.
8. **Claim 21:** D1 shows the use of a system according to Claim 1 to concentrate a contaminated water-solvent emulsion. A person skilled in the art seeking to solve the problem of concentrating an organic-aqueous solvent containing extracted materials would use the D1 system.
9. It is clear from the inventive concept that not all the vapour need be returned to the flash evaporator, which happens during the start-up phase in D1, for example. However, a procedure of this kind, which would make little sense in the present case, is possible in independent Claims 1 and 14.

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VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

1. ~~The way in which the system described in the present~~ application functions is not clear from Figure 1. For instance, the mode of operation of the rectification is not clear, because it produces only an outlet flow. In addition, no fraction is removed from the base circuit and therefore it is not clear how the column functions at the base.